

REMARKS

Pursuant to 37 C.F.R. § 1.111, Applicant respectfully requests reconsideration of the claim rejections set forth in the Office Action dated July 20, 2008.

Summary

Claims 1 – 6 are currently pending.

Claims Rejections

Claims 1 and 6 were rejected pursuant to 35 U.S.C. § 102(b) as being anticipated by Sakai (WO 01/41496). Claims 2 and 3 were rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Sakai in view of Shimakawa (U.S. Patent No. 5,894,263). Claim 4 was rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Sakai in view of Sahyoun (U.S. Patent No. 6,460,651). Claim 5 was rejected pursuant to 35 U.S.C. § 103(a) as being unpatentable over Sakai in view of Bertagni (U.S. Patent No. 5,693,917).

Claim 1 recites, *inter alia*, the vibration-generating driving source is supported on a back side of the diaphragm near one end of the diaphragm.

Sakai fails to disclose or suggest a vibration-generating driving source is supported on a back side of the diaphragm. In fact, Sakai teaches a contrary arrangement. Sakai teaches “a yoke 1, a disc-shaped permanent magnet 2, a plate 3 which are coupled with one another to form a magnetic circuit device” (Sakai translation; page 4, lines 8 – 10). “The vibration actuator further comprises a vibrating member 9 of metal, a coil 10 fixed to the vibrating member 9 and disposed in the magnetic gap of the magnetic circuit device” (Sakai translation; page 4, lines 17 – 19). Only the coil 10 is fixed to the vibrating member 9. As disclosed in the Background of the present application, the conventional art has a driving source that is arranged at the back side of the diaphragm but is not supported by the diaphragm. The arrangement disclosed by Sakai is similar to the conventional art disclosed in the Background of the present application. Accordingly, claim 1 is allowable over the cited references.

Claim 1 is allowable for additional reasons that are independent of the reasons set forth above. Claim 1 is allowable because Sakai fails to disclose a vibration-

generating driving source near one end of the diaphragm. In fact, Sakai teach that the "central shaft 11 is passed and inserted through the central hole of a suspension plate 5a and magnetic circuit device while the central part of the suspension plate 5a is held via an elastic member 6c" (Sakai translation; Page 8, line 28 – Page 9, line 4). Sakai illustrates in Figure 1B that the magnetic circuit device 1,2,3 is disposed centrally between the two ends.

The Sakai disclosure is thus at best ambiguous as to "near one end." It is well settled that an anticipation rejection cannot be predicated on an ambiguous reference (*In re Turlay*, 304 F. 2d 893, 899; 134 USPQ 355, 360 (CCPA 1962)). For at least this reason claim 1 is allowable over the cited reference.

Claim 1 is allowable for additional reasons that are independent of the reasons set forth above. Claim 1 is allowable because Sakai fails to disclose a vibration controlling portion. There is no disclosure or suggestion that the Sakai disclosure teaches or suggests a vibrating controlling portion. Accordingly, claim 1 is allowable over the cited reference.

Claim 1 is allowable for additional reasons that are independent of the reasons set forth above. Claim 1 is allowable because Sakai fails to disclose at least the one end and the two sides perpendicular to the one end and opposite to each other are supported on an elastic cushion. There is no disclosure or suggestion that the Sakai disclosure teaches or suggests the recited feature. Accordingly, claim 1 is allowable over the cited reference.

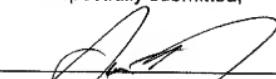
Dependent claims 2 – 6 depend from an allowable base claim, so are allowable for at least this reason.

Conclusion

For at least the reasons presented above, the Applicant respectfully submits that the pending claims are in condition for allowance.

The Examiner is respectfully requested to contact the undersigned in the event that a telephone interview would expedite consideration of the application.

Respectfully submitted,



Gustavo Siller, Jr.
Registration No. 32,305
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200